

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 3978 of 2004****For Approval and Signature:****HONOURABLE MR.JUSTICE AKIL KURESHI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

NATUBHAI MALDEBHAI CHANDUVADIY - Respondent(s)

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Appearance :

MR ASHISH M DAGLI for Petitioner(s) : 1,
MR MUKESH H RATHOD for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 26/09/2005

ORAL JUDGMENT

1. In the present petition, the petitioner S.T. Corporation has challenged the legality of an award dated 24th September, 2003 passed by Labour Court, Ahmedabad. By the impugned award the Labour Court was

pleased to allow the reference of the respondent workman partially. The respondent workman was engaged as a driver by the petitioner State Road Transport Corporation. On 2/6/1997 when the workman was driving the bus of the petitioner Corporation upon checking, it was found that seven passengers were travelling in the bus without tickets. Such passengers were sitting in the cabin of the driver. It was alleged that the workman had carried such passengers in his cabin unauthorizedly. Upon checking he also mis-behaved with the squad. He tried to create a commotion by exciting the passengers. He refused to drive the bus on onward journey. On account of his non co-operation the officers of the corporation had to take help of the police constable on duty. They had to summon the service of another driver and after considerable loss of time the bus could proceed for its onward journey and had been driven by another driver of the Corporation.

2. After issuance of charge sheet and holding a departmental inquiry, finding that the charges are proved the petitioner passed an order on 27th August, 1998 dismissing the respondent from service. Respondent challenged his dismissal before the Labour Court, by

raising an Industrial Dispute which was referred for adjudication as Reference (LCB) No. 448/1999. Labour Court allowed the reference in part and directed reinstatement of the workman in service with continuity without back wages.

3. In the impugned award the Labour Court observed that it appears that the passengers in question were sitting in the cabin of the driver. However, there was no dishonest intention on the part of the workman. It was further observed that there is no material on record to suggest that fare was collected from the passengers. It was observed that if the passengers did not purchase tickets the workman cannot be held responsible for the same. It was observed that long service could not have been brought to an end for such a trivial misconduct.

4. From the perusal of the award of the Labour Court, it appears that the workman concerned was mistaken for the conductor of the bus, whereas in reality the respondent was discharging his duties as a Driver. Allegations included carrying of passengers in the cabin who have not purchased tickets. It was also stated that he did not drive the bus and created a commotion. On

account of his behaviour the authorities had to take help from police, had to summon another driver from another route and the bus journey commenced after considerable delay. The Labour Court has not considered these allegations and the conclusions of the employer in this regard. The charge against the respondent also did not suggest that fare was collected from the passengers and tickets were not issued. In fact from the outset the case of the employer has been that the passengers did not purchase tickets at all.

4.1 There is no discussion as to how the Labour Court came to the conclusion that the charge is not fully proved. In fact to the important and a grave element of the charge namely mis-behaviour of the workman with the checking squad and refusal to drive the bus which occasioned the officials to seek police help and to procure the service of another driver has not been adverted to at all. The behaviour of the respondent upon the bus being checked was not befitting a responsible employee. When he was entrusted with the task of driving the bus and carrying the passengers safely and comfortably to their destinations instead of performing his duties he not only quarreled with the checking squad,

he brought the situation to such a point that the officers had to take police help. Upon persistent refusal by the workman the administration had to summon the service of another driver who was discharging the duties of some other route. It was only thereafter that the bus journey commenced further. The Labour Court has clearly ignored this important aspect of the matter and glossed over the misconduct of the workman. The award of the Labour Court, therefore, suffers from non-consideration of important material. Award, therefore, cannot be sustained. There was no material on record to discard or dis-believe the conclusion of the employer in the departmental inquiry. For want of any rebuttal evidence Labour Court erred in interfering with the order passed by the petitioner.

5. In the result, impugned award is, therefore, quashed and set aside. Despite allowing this petition, if the respondent workman is entitled to any benefits, it is expected that the same will be released expeditiously. Rule is made absolute accordingly. No order as to costs.

(Akil Kureshi, J.)

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